



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,593	02/16/2001	Joseph D. Gresser	CSI-112AX	4390

23579 7590 10/19/2004

PATREA L. PABST  
PABST PATENT GROUP LLP  
400 COLONY SQUARE  
SUITE 1200  
ATLANTA, GA 30361

EXAMINER
----------

PREBILIC, PAUL B

ART UNIT	PAPER NUMBER
----------	--------------

3738

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/785,593

Applicant(s)

GRESSER ET AL.

Examiner

Paul B. Prebilio

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-8,11-18,20,24-31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11,14,17 and 18 is/are rejected.
- 7) ☒ Claim(s) 1,4-8,12,13,15,16,20,24-31 and 33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 3738

### ***Election/Restrictions***

Claims 5, 7, 8, 13-15 and 24 were withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species. However, since base claim 1 contains allowable subject matter in view of the prior art of record, these claims have been **rejoined**.

### ***Claim Objections***

Claims 1, 8, and 12 are objected to because of the following informalities:

On line 5 of claim 1, the term "comprises" is confusing because the strengthening material is a polymer material as well as a strengthening material as disclosed. For this reason, the Examiner suggests changing "comprises" to ---includes--- in order to overcome this objection. Appropriate correction is required.

With regard to claim 8, lines 1-2, the terminology "further comprises" is unclear because it is not clear what element is being modified. For this reason, the Examiner suggests changing "further comprises" to ---said device further comprises--- in order to overcome this objection.

In claim 12, line 2, "comprises" is confusing here since base claim 1 set forth "comprises" for the polymer. The Examiner suggests changing "comprises" to ---is made of--- in order to overcome this objection.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 14, 17, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 11, line 2, "reinforcing material" lacks antecedent basis. The Examiner suggests changing it to ---strengthening material--- in order to overcome this objection.

Regarding claim 14, line 2, "said polymer" lacks clear antecedent basis because more than one polymer has been set forth in the base claim and intervening claim. For this reason, the Examiner suggests (1) changing "polymer comprises" to ---buffering or neutralizing agent polymer is made of--- or (2) to delete "polymer comprises" entirely.

Regarding claim 17, line 2, the language "said polymer further comprises" is confusing since claim 1 set forth the same. The Examiner suggests changing this language to ---said strengthening material is composed of--- in order to overcome this objection.

Regarding claim 18, line 2, "said polymer" is not clear because there are polymers claimed as part of the strengthening material as well as the bioerodible polymer. For this reason, the Examiner suggesting changing "polymer" to ---bioerodible polymer--- in order to overcome this objection.

#### ***Allowable Subject Matter***

Claims 1, 4-8, 12, 13, 15, 16, 20, 24-31, and 33 are objected to as containing objectionable language via claim 1, but would be allowable once claim 1 is rewritten to eliminate the objectionable language.

Claims 11, 14, 17, and 18 are rejected under Section 112, second paragraph, but would be allowable if rewritten to eliminate the indefinite language.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Applicant should specifically point out the support for any amendments made to the disclosure, including the claims (MPEP 714.02 and 2163.06). Due to the procedure outlined in MPEP 2163.06 for interpreting claims, it is noted that other art may be applicable under 35 USC 102 or 35 USC 103(a) once the aforementioned issue(s) is/are addressed.

Applicant is respectfully requested to provide a list of all copending applications that set forth similar subject matter to the present claims. A copy of such copending claims is respectfully requested in response to this Office action.

Art Unit: 3738

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul B. Prebilic whose telephone number is (703) 308-2905. The examiner can normally be reached on 6:30-5:00 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, McDermott Corrine can be reached on (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paul Prebilic  
Primary Examiner  
Art Unit 3738